**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**
**CRIMINAL APPLICATION NO.151 OF** 2006
IN
CRIMINAL APPEAL NO. OF 2006

M/s. J.M.Engineering Works ...Applicant.
V/s.
M/s. Naina Enterprises & Ors. ...Respondents.

Shri Nitin Deshpande, adv. for the Applicant.
Mrs.G.P.Mulekar, A.P.P. for the State.

**CORAM: R.S.Mohite, J.**
**DATE : 24th January, 2006.**

**P.C.:**

1. This is application for grant of leave filed in Appeal. The impugned order is passed by the Judicial Magistrate First Class, Pimpri on 24.11.2005 acquitting the accused for the offences punishable under section 138 of the Negotiable Instruments Act. Cheque was issued in favour of the J.M.Engineering Works on whose behalf, complaint was filed. The loan amount was of Rs.15,000/- The Complainant filed a complaint without giving specific dates on which loan is taken. From the evidence, which has been brought on record on behalf of the accused, the Court has concluded that the loan was, infact, taken in two instalments. One instalment of the loan was of Rs.10,000/- which was given on 02.02.1996 and the second instalment of loan was given on 24.01.97. Case of the accused is of

repayment. They brought on record extracts of the accounts of the complainant-company which indicated that money exceeding the loan taken was deposited in the account by the accused.

3. In the circumstances, the Court has acquitted the accused, drawing adverse inference for not supplying the dates of loans and the date on which loan is granted. View taken is a possible view. Hence, the leave is refused and the application stands dismissed.

**(R.S.Mohite, J.)**